

Assembly Bill No. 1610

CHAPTER 41

An act to amend Section 1785.20.3 of the Civil Code, relating to consumer credit.

[Approved by Governor July 7, 2003. Filed with
Secretary of State July 7, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1610, Pavley. Consumer credit reporting agencies: use of reports.

Existing law regulates the activities of users of consumer credit reports. Existing law requires a person who uses a consumer credit report for a credit approval based on an application for credit and who discovers that the address on the credit application does not match, within a reasonable degree of certainty, the address or addresses listed, on the consumer credit report, to take reasonable steps to verify the accuracy of the address provided on the application, as specified. Existing law permits a consumer to bring an action for a violation of these provisions to recover actual damages, attorney's fees, court costs, and punitive damages, as specified.

This bill would require a user of a consumer credit report, as described above, who discovers that the consumer's first and last name, address, or social security number on the application does not match, within a reasonable degree of certainty, the corresponding information in the consumer credit report, to take reasonable steps to verify the accuracy of the information provided on the application, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1785.20.3 of the Civil Code is amended to read:

1785.20.3. (a) Any person who uses a consumer credit report in connection with the approval of credit based on an application for an extension of credit, and who discovers that the consumer's first and last name, address, or social security number, on the credit application does not match, within a reasonable degree of certainty, the consumer's first and last name, address or addresses, or social security number listed, if any, on the consumer credit report, shall take reasonable steps to verify the accuracy of the consumer's first and last name, address, or social security number provided on the application to confirm that the

extension of credit is not the result of identity theft, as defined in Section 1798.92.

(b) Any person who uses a consumer credit report in connection with the approval of credit based on an application for an extension of credit, and who has received notification pursuant to subdivision (k) of Section 1785.16 that the applicant has been a victim of identity theft, as defined in Section 1798.92, may not lend money or extend credit without taking reasonable steps to verify the consumer's identity and confirm that the application for an extension of credit is not the result of identity theft.

(c) Any consumer who suffers damages as a result of a violation of this section by any person may bring an action in a court of appropriate jurisdiction against that person to recover actual damages, court costs, attorney's fees, and punitive damages of not more than thirty thousand dollars (\$30,000) for each violation, as the court deems proper.

(d) As used in this section, "identity theft" has the meaning given in subdivision (b) of Section 1798.92.

(e) For the purposes of this section, "extension of credit" does not include an increase in an existing open-end credit plan, as defined in Regulation Z of the Federal Reserve System (12 C.F.R. 226.2), or any change to or review of an existing credit account.

(f) If a consumer provides initial written notice to a creditor that he or she is a victim of identity theft, as defined in subdivision (d) of Section 1798.92, the creditor shall provide written notice to the consumer of his or her rights under subdivision (k) of Section 1785.16.

(g) The provisions of subdivisions (k) and (l) of Section 1785.16 do not apply to a consumer credit reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer credit reporting agency or the databases of multiple consumer credit reporting agencies, and does not maintain a permanent database of credit information from which new credit reports are produced.

(h) This section does not apply if one of the addresses at issue is a United States Army or Air Force post office address or a United States Fleet post office address.

